

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: §
Brian James DeHamer et al. § Confirmation No.: 7248
§
Serial No.: 10/677,000 § Group Art Unit: 2191
§
Filed: October 1, 2003 § Examiner: Vo, Ted T.
§
For: METHOD AND APPARATUS § Atty. Docket: NUHP:0123/FLE/POW
FOR SUPPORTING LAYOUT § 200208016-1
MANAGEMENT IN A WEB
PRESENTATION ARCHITECTURE §

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/W. Allen Powell/

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**REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41 AND IN RESPONSE
TO THE EXAMINER'S ANSWER MAILED APRIL 22, 2008**

This Reply Brief is being filed pursuant to 37 C.F.R. § 41.41 and in response to the Examiner's Answer mailed on April 22, 2008. Specifically, this Reply Brief addresses the Examiner's continuing pattern of misinterpretation of Dan et al. (U.S. Patent No. 6,560,639; hereafter "the Dan reference") and the pending claims. However, in the interest of brevity, Appellants address below only those issues or arguments raised the Examiner's Answer that are particularly noteworthy. In view of Appellants' attempt to avoid repetition in this Reply, Appellants respectfully request that the Board consider Appellants' complete arguments set forth in the previously filed Appeal Brief.

Rejection of Claims 22-24 Under 35 U.S.C. § 112, First Paragraph

In the Examiner's Answer, the Examiner maintained the rejection of claims 22-24 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, with regard to the recitation of "tangible machine readable medium," the Examiner asserted that the specification "does not disclose any *medium*." Examiner's Answer, page 4 (emphasis in original). Further, in the Response to Argument section of the Examiner's Answer, the Examiner stated, "Appellants do not define any 'medium' in the specification, but a mere assertion as WPA '100.'" *Id.*, page 8.

First, Appellants note that Appellants did not previously argue that the WPA 100 was a tangible computer readable medium. Rather, Appellants stressed that, as those skilled in the art would appreciate, a tangible machine readable medium may correspond to one of many components forming the "*processor-based device*" on which the WPA 100 is executed. That is, Appellants asserted and maintain that by virtue of disclosing a "processor-based device" and additional components, such as an object cached manger, a cookie manager and so forth, the Appellants' specification directly discloses a system in which software elements are stored on a tangible machine readable medium. Otherwise, as would be clear to one of ordinary skill in the art, code could not be executed by the processor-based system. More than this is not required to satisfy 35 U.S.C. §112, first paragraph.

Second, Appellants assert that claim 22, as originally filed, includes a recitation of a "machine readable medium." Thus, a "medium" is actually disclosed by the present application. Further, Appellants assert that one of ordinary skill in the art would *certainly* have understood the meaning of the term "medium," as recited in claim 22, even if the specification included no discussion of computer components that could be described as a machine readable medium. Indeed, information which is well known in the art need not be described in detail in the specification. *See Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379-80, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986); *see M.P.E.P. § 2163, II, A, 2.* By disclosing in a patent application a device that inherently performs a function

or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. *See* M.P.E.P. § 2163.07(a).

The Board is further reminded that the patentee may be his own lexicographer, and that the written description requirement does not require the claims to recite the same terminology used in the disclosure. The Appellants' disclosure is clearly sufficient to meet this standard. For at least these reasons, the rejection of claims 22-24 under 35 U.S.C. §112, first paragraph, is erroneous and should be withdrawn. Accordingly, Appellants request the Board to reverse the rejection of independent claim 22 and the claims depending therefrom.

Rejection of claims 1-3, 6-10, 13-17 and 20-24 Under 35 U.S.C. § 102(b)

In the Examiner's Answer, the Examiner maintained the rejection of claims 1-3, 6-10, 13-17 and 20-24 under 35 U.S.C. § 102(b). First, the Examiner asserted that "Appellants' argument fails to clearly point out the patentability, required under 37 CFR 1.111(c) as replying to an office action, and 41.37(c)(1)(vii)." Examiner's Answer, page 9. Second, while some of the arguments are unclear, it appears that the Examiner essentially reasserted his previous position with respect to the disclosure of the Dan reference, and the "*plurality of portals* ... wherein the layout manager is adapted to produce a *different* c-frame in response to requests received via each of the plurality of portals," as recited in claims 1, 8, 15, and 22. (Emphasis added).

With regard to the Examiner's assertions with respect to 37 C.F.R. § 1.111(c) and 41.37(c)(1)(vii). First, Appellants assert that 37 C.F.R. § 1.111(c) does not appear to apply to the present situation because Appellants are not "amending in reply to a rejection of claims in an application or patent under reexamination." 37 C.F.R. § 1.111(c). Regardless, Appellants assert that the arguments presently submitted and previously submitted in the Appeal Brief meet the requirements of 37 C.F.R. § 41.37(c)(1)(vii) and any applicable requirements of 37 C.F.R. § 1.111(c). Indeed, Appellants have

demonstrated and presently stress that the Dan reference fails to disclose the claimed subject matter. Thus, Appellants have pointed out the patentable novelty presented by the claims in view of the prior art.

Additionally, the Examiner appears to argue that because the Dan reference discloses the term "browser," it anticipates the recited "plurality of portals." However, Appellants assert that a browser is merely a tool used for accessing a web application. Indeed, according to the present specification, a browser may access a web application *using a portal*. Application, paragraph [0062]. In contrast, according to Appellants' best understanding of the Examiner's interpretation of the Dan reference, the Examiner is merely asserting that the Dan reference discloses a web browser that displays a website. This would be consistent with Appellants' understanding of a web browser. However, Appellants maintain that a browser is not a portal.

Appellants stress that a web browser is merely an access tool. For example, as indicated above, a web browser may be utilized to access a web application using a portal. Similarly, a computer is often used to access web applications. However, it would be ridiculous to assert that a computer inherently includes a portal. Accordingly, Appellants assert that merely disclosing a web browser does not inherently disclose a portal, much less the recited plurality of portals.

Further, Appellants stress that even if the Dan reference disclosed portals, it still would not anticipate the claimed layout manager adapted to produce a *different* c-frame in response to requests received via each of the plurality of portals. In fact, the Dan reference discloses that:

a user may be prompted to name and position a new page, and then may be presented one or more pre-set or stored layouts, grids, or templates from which to choose. After a layout is selected, the user may input content as simple text and/or select images from the user's desktop.

Dan, col. 17, lines 59-64.

Hence, rather than producing a *different* c-frame in response to requests, as claimed above, the Dan reference discloses a layout manager that presents the user with pre-stored layouts from which the user can choose. Thus, in Dan, all requests are treated equally since all are provided with similar choices of pre-stored layouts. This is clearly distinct from a system that receives requests, and provides layouts, i.e., c-frames that correspond to the nature of the request. Therefore, Dan does not disclose or suggest the claimed layout manager adapted to produce a different c-frame in response to requests received via each of the plurality of portals, as recited by independent claims 1, 8, 15 and 22.

With regard to the Examiner's assertion that "there is no detailed description in the Appellants' specification for 'different c-frames,'" Appellants assert that there are several passages in the specification directed to different c-frames. Indeed, Appellants direct the Board's attention to paragraphs [0035], [0055], [0059] and [0069], among others, which are believed to provide sufficient detail regarding different c-frame layouts.

Appellants assert that the pending claims are in condition for allowance. Accordingly, for each of the reasons set forth above, Appellants respectfully request that the Board overturn the Examiner's rejection of all pending claims. If the Examiner or Board wishes to resolve any other issues by way of telephone conference, the Examiner or Board is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Conclusion

The foregoing are partially reiterative points regarding the reasons why the pending claims are allowable. Appellants rely upon all of the reasons advanced in the Appeal Brief, and respectfully request that the Board carefully review the claims in view of these arguments and indicate the allowability of the claimed subject matter.

Respectfully submitted,

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